

***Detailed Office Action***

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

***Claims 1-34***

2. **Claims 1-34 are rejected under 35 U.S.C. 103(a)** as being obvious over Raz (6,210,331) in view of Kim et al. (6,285,020)

From hereinafter, Kim will stand-in for Kim et al.

**Regarding Claims 1-34**, Raz teaches a confocal focusing system [30] comprising an array of apertures, the apertures defined by regions [2], [14], and [16]. (See Raz, fig. 2 and col. 2, ll. 59-60)

**Further regarding Claims 1-34**, Raz does not explicitly teach an array of apertures comprising a mask, lens, and metal and dielectric layers. However, Kim teaches an array configuration [200] of lenses and subwavelength apertures [124] comprising a reflective metal film [120] and dielectric layers [130] and [140]. (See Kim, fig. 11a, col. 12, ll. 28-52). Since Raz and Kim both teach optical array configurations, (See Raz, col. 1, ll. 42-45); it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Raz to have the dielectric configuration taught by Kim because the resultant configuration would be capable of wavelength-selective transmission properties. (See Kim, Abstract, ll. 19-20) One would have been motivated to make this modification because the ability to construct confocal arrays with wavelength selective transmission properties enhances the performance of near-field scanning optical microscope probes. (See Kim, Abstract, ll. 20-21)

*Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to Form 892 for additional references cited but not used in this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Radkowski whose telephone number is (571) 270-1613. The examiner can normally be reached on Monday - Thursday, 8 AM to 5 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font, can be reached on (517) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, See <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call (800) 786-9199 (IN USA OR CANADA) or (571) 272-1000.

/James P. Hughes/

/Peter P. Radkowski/

5/20/2008

Primary Examiner, Art

Application/Control Number: 09/917,402  
Art Unit: 2883

Page 5

Unit 2883